

Application No.: 10/719,371

8 Docket No.: 28212/1200285-US1/NC34963US

**REMARKS**

Claims 1-27 are now pending in this Application. The Final Office Action (FOA) dated December 23, 2005 has rejected Claims 1-27. Applicants have amended independent Claims 5, 11, 14, and 21 as described below. Applicants submit that the pending claims are patentable for the reasons discussed in detail below.

The 35 U.S.C. §103 rejection of Claims 1-8, 10-16, 18-23, and 25-27:

Section 3 of the FOA rejected Claims 1-8, 10-16, 18-23, and 25-27 under 35 U.S.C. §103(a) as being unpatentable over Chen et al (U.S. Patent Application Publication No. 2003/0053464, hereinafter referred to as Chen) in view of Ma et al (U.S. Patent No 6,775,280, hereinafter referred to as Ma). Chen is directed to "a method of sending data packets through a Multiple Protocol Label Switching MPLS network comprising assigning to each packet a quality of service (QoS) class flag, and routing each packet through the MPLS network dependent on the QoS class flag assigned." (Chen, pg. 1, para. 8.) The FOA indicates that applicants' prior arguments regarding Chen are moot in view of new grounds of rejection. Applicants respectfully maintain and incorporate the prior arguments regarding Chen. However, the FOA also introduces Ma as a reference. Ma is directed to routing data by choosing one of multiple output ports based on a QoS of the data, a pre-established policy, and a network efficiency information (e.g., load balancing). (See Ma, col. 2, lines 5-10 and 13-17.) More specifically, Ma receives a QoS *policy* and associates each QoS with a different output port. (See Ma, col. 3, lines 19-21 and col. 7, lines 16-23.) A later received data *packet* includes a QoS class, and the data is routed through the corresponding output port. The FOA cites portions of Chen and Ma as disclosing the limitations of independent Claim 21. The FOA later indicates that the other independent Claims 1, 5, 11, and 14 contain limitations that are substantially similar to Claim 21. Applicants respectfully disagree that Chen and Ma disclose or suggests all of the limitations of Claim 21.

For example, the FOA appears to incorrectly equate terms in Ma with terms in the claims. Specifically, the FAO indicates that Ma transmits customer policy data through the output port associated with that QoS. (FOA, pg. 3.) The FOA seems to indicate that this is equivalent to

{S:\28212\1200285-us1\80050088.DOC \XXXXXXXXXXXXXXXXXXXXXXXXXXXX} }

Application No.: 10/719,371

9 Docket No.: 28212/1200285-US1/NC34963US

deploying device-specific commands to policy targets. Applicants respectfully disagree. Ma does not disclose or suggest transmitting device-specific commands or even "customer policy data" through the chosen output port. Ma discloses transmitting a data *packet* 30 that includes a QoS class through a chosen port associated with a received QoS *policy* 52. (See Ma, col. 7, lines 16-23 and col. 8, lines 21-31.) In more detail, Ma discloses that a "control circuit 44 makes a multi-stage routing decision 62 based on the policy 52 . . . This decision 62 determines which output port 42 will be used to transmit the packet 30 back into the network." (Ma, col. 8, lines 31-36.) Ma's transmitted data is not equivalent to policy data and is not equivalent to the claimed "device-specific commands." Thus, Ma's transmitted data does not disclose or suggest the claimed device-specific commands.

In addition, the FOA appears to equate Ma's output port to the claimed "policy target with an interface assigned a role name." Ma explains that network "device 22 transmits packets within the output queue 50 through their respected output ports 42 back into the network 20." (Ma, col. 7, lines 5-7.) Thus, the output ports are within the network device 22, and not part of Ma's destination nodes. In contrast, the claimed policy targets clearly refer to other nodes in the network. Claim 1 uses the phrase "interfaces of devices of the network." In view of the specification, the words "policy targets" are clearly understood to include "network devices that are to implement the specific routing assignments, and the device specific commands are deployed to the interfaces of such network devices." (Spec., pg. 7, lines 3-5.) Ma does not disclose or suggest that device-specific commands are deployed to destination devices in the network. Ma's destination nodes are destinations for data packets 30. (Ma, col. 5, lines 42-47.) Moreover, Ma does not disclose or suggest that a destination device has an interface that is assigned a role name.

To clarify the grammar, applicants have amended independent Claims 5, 11, 14, 21 to specify that policy targets comprise network devices. Support for the amendments is found in the specification at a number of places including the location cited above.

For the reasons above, the rejection of independent Claims 1, 5, 11, 14, and 21 under 35 U.S.C. §103(a) should be withdrawn. Also, it is well established that dependent claims are

{S:\28212\1200285-us1\80050088.DOC [REDACTED] }

Application No.: 10/719,371

10 Docket No.: 28212/1200285-US1/NC34963US

considered to include all of the elements of the independent claims from which the dependent claims depend. Thus, dependent claims are patentable for at least the same reasons as their corresponding independent claims. Accordingly, the rejection of dependent Claims 2-4, 6-10, 12, 13, 15-20, and 22-27 should also be withdrawn.

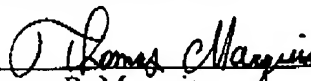
The 35 U.S.C. §103 rejection of Claims 9, 17, and 24:

Section 5 of the FOA rejected Claims 9, 17, and 24 under 35 U.S.C. §103(a) as being unpatentable over Chen in view of Ma and Goguen et al (U.S. Patent No. 6,665,273, hereinafter referred to as Goguen). Goguen is directed to a MPLS system that determines actual traffic flow within a traffic engineering (TE) tunnel and dynamically adjust bandwidth to reflect the actual traffic flow. (See Giniger, abstract). Goguen does not disclose or suggest the limitations that are missing from Chen or Ma as discussed above with regard to the independent claims. Thus, applicants respectfully disagree that Chen, Ma, and Goguen disclose or suggests all of the limitations of the amended independent claims. Accordingly, the rejection of dependent Claims 9, 17, and 24 under 35 U.S.C. §103(a) should be withdrawn.

In view of the above amendments and remarks, applicants believe the pending application is in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: February 9, 2006

Respectfully submitted,

By   
Thomas R. Marquis  
Registration No.: 46,900  
DARBY & DARBY P.C.  
P.O. Box 5257  
New York, New York 10150-5257  
(206) 262-8900  
(212) 527-7701 (Fax)  
Attorneys/Agents For Applicant

{S:\28212\1200285-us1\80050088.DOC (10/719,371) (2/9/2006 6:25:35 PM) (USPTO) (10/719,371) }